

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

**J.B.D.L. Corp. d/b/a
BECKETT APOTHECARY, et al.
Plaintiffs,**

V.

WYETH

Defendant.

NO. C-1-01-704

Judge Sandra S. Beckwith
Magistrate Judge Timothy S. Hogan

**CVS MERIDIAN, INC. and
RITE AID CORPORATION,
Plaintiffs,**

V.

WYETH

Defendant.

No. C-1-03-781

Judge Sandra S. Beckwith

**MOTION OF CVS MERIDIAN, INC. AND RITE AID CORPORATION
TO STAY MAGISTRATE JUDGE'S JUNE 7, 2004 ORDER PENDING APPEAL**

Plaintiffs CVS Meridian, Inc. (“CVS”) and Rite Aid Corporation (“Rite Aid”) respectfully request that the June 7, 2004 Order of Magistrate Judge Timothy S. Hogan be stayed while objections to that order are pending before Judge Sandra Beckwith and in support thereof state as follows:

1. Defendant Wyeth served its first set of merits-related requests for production of documents on Rite Aid and CVS on or about December 23, 2003.

2. CVS and Rite Aid subsequently served answers and objections to Wyeth's document requests and produced various documents.

3. On February 27, 2004, Defendant Wyeth filed a motion to compel production of documents against CVS and Rite Aid.

4. On June 7, 2004 Magistrate Judge Hogan entered an Order denying in part and granting in part Wyeth's motion to compel.

5. On June 22, 2004, CVS and Rite Aid filed timely objections to certain portions of the June 7, 2004 Order granting Wyeth's motion to compel, asking Judge Beckwith to reverse those portions of the order.

6. Some portions of Judge Hogan's Order granting Wyeth's motion to compel and directing that certain documents be produced should be stayed, pending Judge Beckwith's decision on Plaintiffs' objections. Production of the documents ordered to be produced prior to a decision by the district court would place a substantial burden on Plaintiffs. Moreover, in the event that Plaintiffs' objections are sustained, Plaintiffs will have been forced to undertake a substantial and burdensome document production that will have been unnecessary and resulted in the production of numerous irrelevant documents.

7. Defendant Wyeth will suffer no prejudice as a result of the requested stay.

WHEREFORE, for the foregoing reasons, Plaintiffs CVS Meridian, Inc. and Rite Aid Corporation respectfully request that Magistrate Judge Timothy S. Hogan's June 7, 2004 Order be stayed pending the appeal to the district court.

Respectfully submitted,



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Dated: October 26, 2004

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Defendant.

No. C-1-03-781

Judge Sandra S. Beckwith

PROPOSED ORDER

AND NOW, this _____ day of _____, 2004, it is hereby ordered
that CVS Meridian, Inc.'s and Rite Aid Corporation's Motion to Stay Magistrate Judge's June 7,
2004 Order Pending Appeal is hereby granted.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been served this 26th day of October, 2004 via facsimile and first class mail.

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